

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

THEODORE C. BANKS	§	
VS.	§	CIVIL ACTION NO. 1:11-CV-10
DAVID KELLY, ET AL	§	

MEMORANDUM ORDER ADOPTING THE MAGISTRATE  
JUDGE'S REPORT AND RECOMMENDATION

Plaintiff, Theodore C. Banks, a non-incarcerated litigant, proceeding *pro se* and *in forma pauperis*, filed this civil rights action pursuant to 42 U.S.C. § 1983 and *Bivens v. Six Unknown Agents of Bureau of Narcotics and Dangerous Drugs*, against the following defendants: Deputy David Kelly, Lt. Tony Viator, and K-9 Officer Phillip Smith, all with the Jefferson County Sheriff's Office, and ATF S/A Travis Gates, DEA S/A Rick Erickson, DEA Officer Billy Permenter, DEA Officer Robert P. Cartwright, ATF S/A Kevin Wolfe, all employees of the Federal Government.

The Court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this Court. The Magistrate Judge recommends this lawsuit be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B) as plaintiff's claims are barred by the applicable statute of limitations.

The Court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, and pleadings. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties.<sup>1</sup>

---

<sup>1</sup>The courtesy copy of the Report and Recommendation sent to plaintiff was returned on October 31, 2011 as "unclaimed." See Docket Entry No. 5. Plaintiff has failed to notify the Court of his new address.

ORDER

Accordingly, the findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the Magistrate Judge's recommendations.

So **ORDERED** and **SIGNED** this **8** day of **November, 2011**.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge